



Monday
April 26, 1999

Part XLVI

Social Security Administration

Semiannual Regulatory Agenda

SOCIAL SECURITY ADMINISTRATION (SSA)

SOCIAL SECURITY ADMINISTRATION**Office of the Commissioner****20 CFR Ch. III****Semiannual Unified Regulatory Agenda****AGENCY:** Social Security Administration.**ACTION:** Semiannual regulatory agenda.

SUMMARY: Executive Order 12866 entitled "Regulatory Planning and Review," issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish semiannually a brief description of all regulatory actions then under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published on November 9, 1998.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Georgia E. Myers, Acting Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235; telephone (410) 965-3632.

SUPPLEMENTARY INFORMATION: The Social Security Administration (SSA) has responsibility for the old-age, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the supplemental security income program under title XVI of the Act. We are not a regulatory agency. For the most part, SSA's regulations do not impose burdens on the private sector or on State, local, or tribal governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency toward the public and beneficiary's rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: 1) Legislative implementation; 2) program improvements to provide better service to SSA customers; and 3) improvements or clarifications to fulfill commitments made as part of the President's Regulatory Reinvention Initiative.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decisionmakers. Supporting regulations are often required. In some instances, the Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries, and their legal counsels.

Providing world-class service to our customers remains a principal objective of the Social Security Administration. Our regulatory program supports this overarching Agency goal. One of the areas in which we are working hard to deliver high-quality service is our disability determination process. Several of our agenda items support improvements to disability program administration.

One of our most important agenda items will raise, for a person disabled by other than blindness, the amount of earnings ordinarily considered to show that he or she is performing substantial gainful activity (SGA) from \$500.00 a month to \$700.00 a month. Under the Social Security Act, a person performing SGA is not considered disabled for program purposes.

Another very important agenda item—Expansion of the Use of Video Teleconference Technology in Hearings before Administrative Law Judges (ALJs) of the Social Security Administration—is expected to improve customer service by providing faster access to a hearing before an ALJ by removing the need for the claimant (and representative, if any) and the ALJ to be physically present at the same location.

We remain committed to managing the Supplemental Security Income program, for which we have had responsibility since the program's inception in 1974, as efficiently and effectively as possible. Successful management depends on our ability to serve our SSI beneficiaries and properly administer the public funds that are entrusted to us. To that end, we have established four pillars under which we are taking significant measures to strengthen the integrity of the SSI program. We have under way a series of initiatives designed to improve payment

accuracy; we have developed a 7-year plan for conducting periodic reviews to determine if an individual receiving disability benefits has medically recovered; and we are engaged in an aggressive program to deter, detect, investigate, and prosecute fraud. In addition, we continue to use various debt collection tools that have been authorized by law to recover individual overpayments. In FY 1997, more than \$1.1 billion in overpayments was detected. A recent study revealed that our recovery efforts have been largely successful. The success of our debt recovery efforts notwithstanding, however, we are continually looking at ways to further improve the recovery rate. We have planned new initiatives and developed legislative proposals that will continue to build upon this performance. These new initiatives are estimated to result in program savings of \$40 million by FY 2002. In this agenda are several new regulations that are being developed to implement additional debt collection tools recently authorized by legislation.

Two final regulations currently being prepared will implement several elements of the "process unification" initiative. This initiative is designed to produce one set of adjudicative standards for all levels of disability review within SSA. The first regulation—Weight of Disability Determination Service (DDS) Medical Consultant Opinions—will define the specific weight to be given to DDS medical consultant opinions in hearing decisions. The second—Assessment of Residual Functional Capacity—will clarify the guidelines in our regulations used in determining whether an individual under age 50 lacks the capacity to perform less than a full range of sedentary work.

Also in this agenda are proposed revisions to our rules on Plans to Achieve Self-Support, proposed revisions to several of the medical criteria used to evaluate whether an individual is disabled for benefit purposes, and a final rule—Dedicated Accounts/Installment Payments—which reflects a welfare reform initiative.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of

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stakeholders interested in Social Security programs.

We recognize that it is important for our customers to be able to understand our rulemaking documents, and it has long been our established policy to

write these documents in plain and understandable English. We are continuing this policy. In addition to serving our customers, these efforts support the Administration's Plain Language in Government Writing initiative.

The April 1999 regulatory agenda for the Social Security Administration follows.

Dated: March 3, 1999.

Georgia E. Myers,
Acting SSA Regulations Officer.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3929	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Fees for Representation of Claimants (296P)	0960-AD23
3930	Administrative Review Process; Administrative Res Judicata and Related Rules (526P)	0960-AE11
3931	Supplemental Security Income; Plans for Achieving Self-Support (506P)	0960-AE17
3932	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements With State, Local, and Indian Tribal Governments (547P)	0960-AE25
3933	Supplemental Standards for Ethical Conduct for Employees of the Social Security Administration (601P)	0960-AE48
3934	Privacy and Disclosure of Official Records and Information (711P)	0960-AE88
3935	Federal Salary Offset (Withholding a Portion of a Federal Employee's Salary To Collect a Delinquent Debt Owed to the Social Security Administration) (721P)	0960-AE89
3936	Private Collection Agencies (Using Private Collection Agencies to Help SSA Collect Delinquent Title II Debts Owed by Former Beneficiaries) (722P)	0960-AE90
3937	Charging Interest (Charging Interest on Delinquent Debts) (723P)	0960-AE91
3938	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)	0960-AE92
3939	Self-Sufficiency Incentives for Title II and Title XVI Program Beneficiaries (725P)	0960-AE93
3940	Testimony By Employees and the Production of Records in Legal Proceedings (732P)	0960-AE95
3941	Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Clarification of "Age" as a Vocational Factor (736P)	0960-AE96
3942	OASDI and SSI; Expansion of the Use of Video Teleconference Technology in Hearings Before Administrative Law Judges of the Social Security Administration (737P)	0960-AE97
3943	Revised Medical Criteria for Determination of Disability, Appendix 1 to Subpart P—Listing of Impairments (740P) ..	0960-AE99

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3944	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System (143F)	0960-AB01
3945	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs, Determining Disability and Blindness; Substantial Gainful Activity Guides (147F)	0960-AB73
3946	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income, Medical and Other Evidence of Your Impairment(s) (469F)	0960-AD91
3947	Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Revision to Medical-Vocational Guidelines (599F)	0960-AE42
3948	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind and Disabled; Evaluating Opinion Evidence (624F)	0960-AE56
3949	Dedicated Accounts and Installment Payments for Certain Past Due SSI Benefits (622F)	0960-AE59
3950	Revised Medical Criteria for Determination of Disability, Deletion of Obesity Listing (620F)	0960-AE65
3951	Effective Date of Application for Supplemental Security Income (SSI) Benefits (642F)	0960-AE71
3952	Denial of SSI Benefits for Fugitive Felons and Probation and Parole Violators (660F)	0960-AE77
3953	Employer ID Numbers for State and Local Government Employment (691F)	0960-AE84
3954	Increase in Substantial Gainful Activity (738F)	0960-AE98

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Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3955	Old-Age, Survivors, and Disability Insurance Program; Medical Criteria for Evaluating Mental Disorders and Traumatic Head Injury in Adults (222F)	0960-AC74
3956	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payment Under Title II & XVI of the Social Security Act (295F)	0960-AD22
3957	Procedure To Review Complaints of Alleged Misconduct on the Part of Administrative Law Judges (341P)	0960-AD54
3958	Election of Benefits Based on Age by Disabled Widow, Widower, and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
3959	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Hemic and Lymphatic System, and Malignant Neoplastic Diseases (399P)	0960-AD67
3960	Revised Medical Criteria for Determination of Disability, Endocrine System and Obesity and Related Criteria (436P)	0960-AD78
3961	Old-Age, Survivors, and Disability Insurance Program; Contributions for Support (475P)	0960-AD92
3962	Computation of SSI Benefits for the First Three Months of Payment (476P)	0960-AD93
3963	Definition of "Largest Benefit Amount" for Simultaneous Entitlement to Child's Benefits (481P)	0960-AD95
3964	Federal OASDI and SSI for the Aged, Blind, and Disabled; Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism (496F)	0960-AD96
3965	Repeal of Facility of Payment Provision (508F)	0960-AE02
3966	Modification of Private Printing and Prescribed Applications and Other Forms (530P)	0960-AE15
3967	OASDI; Nonpayment of Benefits to Incarcerated Individuals and Individuals Confined in Criminal Cases, Pursuant to Conviction or by Court Order Based on Findings of Insanity (531P)	0960-AE16
3968	Old-Age, Survivors, and Disability Insurance Benefits; Replacing Social Security Number Cards (543F)	0960-AE18
3969	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (554F)	0960-AE27
3970	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Indian Tribal Governments (555F)	0960-AE28
3971	Restrictions on Lobbying in Connection With the Award of Grants, Contracts, and Cooperative Agreements (556F)	0960-AE29
3972	Elimination of Rounding Distortion in the Calculation of the Contribution and Benefit Base and Earnings Test Exempt Amounts (512F)	0960-AE40
3973	Determining Disability and Blindness; Eliminating the Lower Substantial Gainful Activity Earnings Guideline Amounts (603P)	0960-AE49
3974	Deeming of Income From an Ineligible Spouse to an Eligible Individual and an Eligible Child (606P)	0960-AE50
3975	Implementing Modifications to Prehearing Procedures and Decisions by Adjudication Officers (616P)	0960-AE55
3976	Effectuation of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, in Programs Receiving Financial Assistance by SSA (617F)	0960-AE63
3977	Availability of Information and Records to the Public—Charging Fees for Providing Personal Information (618P)	0960-AE64
3978	Coverage of Employees of State and Local Governments; Office of Management and Budget (OMB) Control Number (280F)	0960-AE69
3979	Determining Disability and Blindness; Providing for Use of a Single Decisionmaker To Make Determinations of Disability Under Titles II and XVI of the Social Security Act (668P)	0960-AE73
3980	Reflect a Requirement of the Social Security Act That the Commissioner Disregard Evidence in Certain Situations Involving Fraud or Similar Fault Under Titles II or XVI of the Act (671P)	0960-AE75
3981	Nondiscrimination on the Basis of Disability (661P)	0960-AE78
3982	Adding New SSI Income and Resource Exclusion (VA Payments to Certain Vietnam Veterans' Children with Spina Bifida) to Lists of Exclusions Provided by Other Federal Statutes (664F)	0960-AE79
3983	Standards of Conduct 20 CFR Part 430—Personnel (672F)	0960-AE81
3984	Old-Age, Survivors and Disability Insurance; Calculating Benefits for Auxiliaries or Survivors When There Is a Dually Entitled Beneficiary (692P)	0960-AE85

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3985	Benefits for Spouses, Mothers, Fathers and Children (455F)	0960-AD83
3986	Maximum Family Benefits in Guarantee Cases (510F)	0960-AE03
3987	Application of State Law in Determining Child Relationship (557F)	0960-AE30
3988	Reduction of Disability Benefits—Workers' Compensation/Public Disability Benefits (567F)	0960-AE35

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Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3989	Permit Department of State and the Immigration and Naturalization Service To Collect Information Needed To Assign Social Security Numbers to Aliens (569F)	0960-AE36
3990	Listening-In to or Recording Telephone Conversations (626F)	0960-AE66
3991	Final Rules To Extend the Expiration Date of the Authority for Prehearing Proceedings and Decisions by Attorney Advisors (742F)	0960-AF01

SOCIAL SECURITY ADMINISTRATION (SSA)

Proposed Rule Stage

3929. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF CLAIMANTS (296P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, Sec 5106

CFR Citation: 20 CFR 404.1703; 20 CFR 404.1713; 20 CFR 404.1720; 20 CFR 404.1715 to 404.1717; 20 CFR 404.1725; 20 CFR 416.1503; 20 CFR 416.1513; 20 CFR 416.1520; 20 CFR 416.1515 to 416.1517; 20 CFR 416.1525

Legal Deadline: None

Abstract: We propose to amend the regulations to reflect section 5106(a) of Pub. L. 101-508 which modifies the manner in which past-due benefits are calculated and the process by which SSA approves fees charged by persons representing claimants before the Agency.

Timetable:

Action	Date	FR Cite
NPRM	06/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235

Phone: 410 965-5995

RIN: 0960-AD23

3930. ADMINISTRATIVE REVIEW PROCESS; ADMINISTRATIVE RES JUDICATA AND RELATED RULES (526P)

Priority: Other Significant

Legal Authority: 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 421; 42 USC 401(j); 42 USC 425; 42 USC 405 note; 42 USC 421 note; 42 USC 1383; 42 USC 1383b; 42 USC 1382c; 42 USC 902(a)(5); 42 USC 404(f)

CFR Citation: 20 CFR 404.903a (New); 20 CFR 404.903b (New); 20 CFR 404.950; 20 CFR 404.957; 20 CFR 404.967; 20 CFR 416.1403a (New); 20 CFR 416.1403b (New); 20 CFR 416.1450; 20 CFR 416.1457; 20 CFR 416.1467

Legal Deadline: None

Abstract: These proposed changes will amend our regulations governing the administrative review process for the Social Security and Supplemental Security Income (SSI) programs to update our procedures and to reflect and implement sections 205(b)(3)(A) and 1631(c)(1)(B)(i) of the Act, as added by section 5107 of Pub. L. 101-508. Section 5107 specifies certain cases in which our policy on administrative res judicata may not be applied to deny a claimant's subsequent application for benefits under the Social Security or SSI program. In general, section 5107 provides that an individual's failure to timely request review of an adverse determination (initial or reconsidered) under the Social Security or SSI program may not be used by us as a basis for a denial of the claimant's subsequent application for benefits

under the same program, if the failure to request review was due to certain circumstances specified in the statute.

We are also proposing to amend our regulations to expand and clarify our policy on administrative res judicata and on collateral estoppel.

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stan Axel, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235
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RIN: 0960-AE11

3931. SUPPLEMENTAL SECURITY INCOME; PLANS FOR ACHIEVING SELF-SUPPORT (506P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 203; 42 USC 1383b(d)

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1181; 20 CFR 416.1182; 20 CFR